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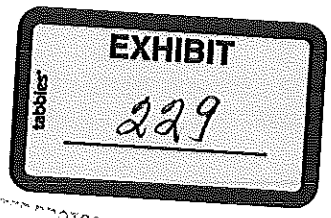

January 31, 2010

Mr. Paul E. Stacey
Bureau of Water Protection & Land Use
Department of Environmental Protection
State of Connecticut
79 Elm Street
Hartford, CT 06106-5127

re: Proposed Streamflow Regulations

Dear Mr. Stacey:

I write on this topic from several perspectives. First, I am a tax-paying, utility-paying consumer of water. I am also President of the Meriden Land Trust, and sit on the City of Meriden Flood Control Implementation Agency. Finally, I have discovered a passion for the brooks beneath our feet- urban streams.

As a consumer of water, my primary concerns revolve around the quality and availability of drinking water. After spending 5 years living in southern California before I moved to Connecticut, I discovered that there is a cost associated with quality drinking water. In contrast to California, Connecticut is blessed with an abundance of rainfall, and I have never lived in a place that has as many springs as where I now live (in Meriden).

I applaud and strongly support your proposal to regulate both groundwater usage and streamflow to avoid squandering this precious resource. It is imperative that the costs of consuming our water resources be paid at the point of usage, in the present, rather than by our children and grandchildren in the future.

As President of the Meriden Land Trust I am dedicated to preserving the natural resources of Meriden for the enjoyment of the public. This specifically includes preserving the wildlife that are impacted by disrupted streamflow, as well as protecting recreational resources (fishing, kayaking, hiking, etc.). Each of these goals of our organization will be enhanced by streamflow regulation.

As a representative on the Meriden Flood Control Implementation Agency I am acutely aware of the costs of regulation itself. There are necessary costs associated with any regulation, with a portion of those costs coming in the form of paperwork- permit applications, record-keeping, reporting, etc.

I urge you to bend over backwards to streamline all of your bureaucratic processes to minimize the impact on people and organizations who are doing the right thing, while still controlling the behavior of people and organizations who are not.

There is a tip-over point where the cost of bureaucracy converts a friend (one who works for a shared goal) into an enemy (one who works against the process).

In addition, I would like to suggest that you add a specific exemption for flood control construction activities, similar to the one already in place for CONNDOT highway construction [**Sec. 26-141b-3(c)(13)**].

For a number of years I have mapped the course of brooks in the Quinnipiac River watershed, primarily in Meriden but also in Wallingford, Cheshire and Southington. Many of these brooks are intermittent, but there are also quite a few that are perennial (even though they do not show up on USGS maps). Two things that nearly all of these brooks have in common are that they are heavily impacted by the presence of impervious landcover, and a significant fraction of their length is buried in culverts.

These are the brooks with the greatest distortion in their hydrographs, the greatest impact on aquatic life, and with the greatest need for our support and our help. Unfortunately, they are, by definition, the most likely to be categorized as Class 4 and therefore exempted from streamflow regulation.

Even though it might not be practical to do as much for brook segments that happen to lie within an urban environment, I think it is a huge mistake to simply write them off as a lost cause and to completely exempt them from all regulation.

One possibility, which I support, would be to eliminate the Class 4 category. Another, clearly inferior possibility would be to define a new layer of regulation for Class 4 river and stream segments that does not completely sacrifice the ecological needs in favor of human needs.

The narrative standard description for Class 4 [**Sec. 26-141b-4(d)**] is written so broadly that it could be used to justify a Class 4 designation for most or all stream segments of every brook in Meriden. The same is true of one of the factors to be considered in the classification [**26-141b-5(a)(12)**], which includes the consideration of current high impact development and impervious land cover.

The procedure for a classification change requires, among other things, [**Sec. 26-141b-5(c)(1)(A)(i)**] that the petition demonstrate that these ambiguous criteria were mischaracterized or that conditions have changed, and [**Sec. 26-141b-5(c)(2)(A)**] states that such a petition will not even be considered unless it includes an unambiguous (prima facie) demonstration that an ambiguous criterion was misapplied or that conditions have unambiguously changed. I am not a lawyer, but that looks to me to be a Sisyphean task for a Class 4 segment to ever get re-classified as Class 3.

I have heard the argument made that Class 4 will only be applied to river or stream segments that are basically already dead, or serve solely as flood control channels. If a river or stream segment runs through a concrete channel, with no connection to the surrounding water table, I concede that it makes little sense to regulate groundwater extraction in that area of the watershed.

If you do not eliminate the Class 4 category, the narrative standard and factors used in classification of Class 4 river or stream segments must be drastically rewritten to make them less ambiguous and to exclude the possibility that urban streams might be classified as Class 4 simply because they are urban streams.

I found several central definitions or criteria that were not spelled out.

[**Sec. 26-141b-2(18)**] The actual definition of "Diversion" is not included, forcing a reader to search elsewhere. Please include the definition itself, even if you need to state that Sec. 22a-367 contains the controlling definition.

[**Sec. 26-141b-2(33)**] I could not find any criteria for how the granularity of "river or stream segment" would be determined. In other words, what criteria will be used to determine the boundary between stream segments that receive different classifications.

[**Sec. 26-141b-3(a)**] Although the regulations apply to all river or stream systems (including all tributaries and subsurface groundwater), it is not clear to me where classification will stop for smaller streams. It makes little sense to classify all intermittent streams, but will all first-order perennial streams be classified? Only streams mapped on USGS maps? Only second-order or above?

Similarly, it is not clear to me how far up the headwaters of a classified stream segment protections apply. If a developer intends to build close to the top of a watershed in an area where the brooks are too small to classify, will the first downstream classification in the watershed apply to upstream developer requests to extract groundwater?

It seems to me that these matters are important to have spelled out in the regulations.

[**Sec. 26-141b-3(c)(6)**] This paragraph exempts river or stream segments that are "influenced by the tidal waters of Long Island Sound", but without defining what is meant by tidally-influenced. According to The River Book, by James Grant MacBroom, the Connecticut River is tidally-influenced in Enfield (60 miles inland) and the Quinnipiac River is tidally-influenced in Wallingford (10 miles inland). Do you intend to exempt Hartford, Middletown, North Haven and southern Wallingford from streamflow regulations? Do your experts tell you that extracting large amounts of groundwater adjacent to a tidal marsh will not impact the health of that tidal marsh?

Please define "influenced by the tidal waters of Long Island Sound", as well as criteria for how a river or stream segment would be exempted under this provision.

I apologize in advance for any errors on my part. This is not an area of my expertise, but it is an area of my passion.

There has obviously been a tremendous amount of work put into this, by many people. I would like to thank everyone who has contributed. I do hope that you will consider revisions that prevent these regulations, which have so much promise to improve the health of Connecticut's waterways, from having the opposite effect of condemning urban streams to a future of deterioration.

Sincerely,

Dwight L. Needels

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